

ORIGINAL

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FILED
DISTRICT COURT OF GUAM
JAN 23 2006 *MA*
MARY L.M. MORAN
CLERK OF COURT

DISTRICT COURT OF GUAM

UNITED STATES OF AMERICA

Plaintiff,

vs.

CHRISTOPHER M. ESPINOSA,
JONATHAN E. CANOVAS, and
BRIAN WILLIAM ELM,

Defendant.

Criminal Case No. CR-05-000⁵³~~16~~

DECLARATION OF HOWARD TRAPP

I, Howard Trapp, declare that I am an attorney admitted to the practice of law in the courts of Guam including the District Court of Guam;

2. I am competent to testify to the matters stated herein;

3. I regularly practice in the area of criminal defense, and I must often meet with persons incarcerated in the Guam Detention Facility and Federal Detention Facility, both of which are parts of the same place.

4. The courtyard area of the facilities is not a place where a confidential attorney-client communication can be held. The area is adjacent to holding cells occupied by detainees, separated by only metal bars. Also, guards are usually in the immediate vicinity and

UNITED STATES OF AMERICA, Plaintiff v. BRIAN WILLIAM ELM, Defendant

Criminal Case No. CR-05-00016

MEMORANDA RE: ADEQUACY OF FACILITIES TO CONFER WITH CLIENT HELD IN DETENTION

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1 frequently travel through the surrounding area during my meetings with clients. Many times
2 while I am present with a client, other counsel, probation officers, and other persons will be
3 within the same area, separated only by a few feet. In addition to being inadequate for
4 confidential communications, the area is extremely uncomfortable. It has picnic tables with
5 benches grouped under a twenty-foot by twenty-foot canopy. The canopy has numerous holes.
6 When it rains, water reaches those underneath as a result of the wind blowing or holes in the
7 canopy. When the sun is out and the wind is still, the area underneath the canopy is
8 intolerably hot, and counsel and client perspire profusely. When the wind is strong,
9 communications are even more difficult as papers and books must be secured to avoid them
10 from blowing away;
11

12 5. I am also familiar with a room prepared for use of video arraignments in the
13 local court. The facility's supervisor's desk is within several feet of the door to that room. The
14 door has a gap of three or so inches at the top and bottom and several inches on the sides.
15 Guards, detainees, and other persons are usually in the area right outside the door. They can
16 hear anything and everything being said. The room is a converted cell. It is adjacent to two
17 occupied cells and several other cells used for storage.

18 6. No other facility is made available for attorney-client conferences. There once
19 was a room in another building equipped with stools and air conditioning. It was completely
20 sealed and allowed for confidential communications. That room is no longer made available. I
21 am informed and believe that it is used for the storage of kitchen supplies.
22

23 7. I am concerned that I cannot carry on confidential communications with my
24 clients without whispering when no one else is around the places provided for meeting with
25 my clients;

8. I believe the court should undertake to have the United States Marshals Service provide a private location for attorney-client communications in a reasonable setting.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 23, 2006, at Hagåtña, Guam.

HOWARD TRAPP

CCV:ccv
VSCF/B.W. ELM/CR000595